

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Petitioner's motion for leave to proceed *in*

*forma pauperis* is **DENIED**. Petitioner shall have thirty days from the date of this memorandum order in which to pay the \$5 filing fee. Petitioner's failure to pay the filing fee may result in the dismissal of this petition pursuant to Federal Rule of Civil Procedure 41(b).

**SIGNED this 1st day of September, 2010.**

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE